

JUDGE RAKOFF

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
ANGELIQUE TOCCO, individually and on behalf of a class,

-against-

SOLACE FINANCIAL, LLC

Defendant.  
-----X

RECEIVED  
MAY 13 2011  
CLASS ACTION  
COMPLAINT  
U.S.C. S.D. N.Y.  
CASHIERS

JURY TRIAL  
DEMANDED

Plaintiff, by and through her undersigned attorney alleges upon knowledge as to herself and her own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant, its employees, agents, and successors, and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on her own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 *et. seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors within the meaning of 15 U.S.C. § 1692a(6) from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Angelique Tocco is a resident of the State of New York, Bronx County. Plaintiff received and came into contact with a debt collection notice from defendant dated March 11, 2011. **Exhibit A**.

5. Defendant Solace Financial, LLC is a California Limited Liability Company engaged in the business of collecting debt. The principal purpose of defendant is the collection of debt using the mails and telephone, and the defendant regularly attempts to collect debts alleged to be due another.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action as a statewide class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter "FRCP"), on behalf of herself and all consumers who have received debt collection notices and/or letters from the defendant which are in violation of the FDCPA, and their successors in interest (the "Class"). Excluded from the Class is the defendant herein, and any person, firm, trust, corporation, or other entity related to or affiliated with the defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of defendant.

7. This action is properly maintained as a class action. This Class satisfies all the requirements of Rule 23 for maintaining a class action.

8. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, dozens of persons have received debt collection notices from the defendant which violate various provisions of the FDCPA.

9. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

a. Whether the defendant violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e and 1692g(a)(2) by defendant claiming that the current creditor is LEHMAN.

b. Whether plaintiff and the Class have been injured by the defendant's conduct;

c. Whether plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and

d. Whether plaintiff and the Class are entitled to declaratory and/or injunctive relief.

10. Plaintiff's claims are typical of the claims of the Class, and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

11. Plaintiff will fairly and adequately protect the interests of the Class and has retained experienced counsel, competent in the prosecution of class action litigation.

12. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.

13. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class

treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendant's conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains.

14. Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

#### STATEMENT OF FACTS

15. Starting on or about March 11, 2011, defendant mailed a collection letter addressed to Angelique Tocco. Upon receipt of defendant's letter, plaintiff opened and read it. The letter demanded payment of a debt allegedly owed by plaintiff to the current creditor listed as LEHMAN. A copy of said letter is annexed hereto as **Exhibit A**.

#### FIRST CAUSE OF ACTION

16. Each of the above allegations is incorporated herein.

17. Upon information and belief, in violation of 15 U.S.C § 1692e and 1692g(a)(2), the defendant used false representations and deceptive means to collect a debt, by claiming that the current creditor is LEHMAN.

18. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.


**WHEREFORE**, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Issue a preliminary and permanent injunction restraining defendant, its employees, agents and successors from, *inter alia*, engaging in conduct and practices that are in violation of the FDCPA;
- c) Issue a declaratory Order requiring defendant to make corrective disclosures;
- d) Awarding plaintiff statutory damages;
- e) Awarding plaintiff costs of this action, including reasonable attorneys' fees and expenses; and
- f) Awarding plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: March 30, 2011  
Uniondale, New York


A handwritten signature in black ink, appearing to read 'AK', is written over a horizontal line.

Abraham Kleinman (AK-6300)  
Kleinman LLC  
626 RXR Plaza  
Uniondale, New York 11556-0626  
Telephone (516) 522-2621  
Facsimile (888) 522-1692

**EXHIBIT A**

File# 749743  
Los Angeles, CA 90074-9743

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826367

 SOLACE FINANCIAL  
File# 749743  
Los Angeles, CA 90074-9743  
Toll Free: 888-765-2236  
Fax: 704-525-2412

March 11, 2011



Angelique A Tocco  
2820 DUDLEY AVE  
BRONX NY 10461-5606

RE:

<b>Current Creditor:</b>	LEHMAN
<b>Aurora Acct #:</b>	33476847
<b>Solace Fin. Acct #:</b>	B10137040699
<b>Account Balance:</b>	\$116,940.05

Dear Sir or Madam:

The above referenced account has been placed with our office for collection.

Unless you notify this office within 30 days of receiving this notice that you dispute the validity of this debt, or any portion thereof we will assume that this debt is valid. If you notify us of any such dispute in writing within 30 days of receiving this notice, we will obtain verification of the debt or obtain copy of the judgment and mail you a copy. If you request in writing within 30 days of receiving this notice we will provide you with the name and address of the original creditor if different from the current creditor.

*This is an attempt to collect a debt and any information obtained will be used for that purpose*

Please remit all payments or correspondence to:

Solace Financial, LLC  
File# 749743  
Los Angeles, CA 90074-9743

If you have any questions, please call Solace Financial, LLC at 1-888-765-2236 between the hours of 8:00 a.m.-8:00 p.m. EST. Monday through Thursday. 8:00 a.m. -5:00 p.m. EST. Friday and 8:00 a.m. - 12:00 p.m. EST Saturday.

Sincerely,

Solace Financial, LLC

North Carolina Department of Insurance Permit #4425